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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

20 MICHAEL PEMBERTON and
21 SANDRA COLLINS-PEMBERTON,
22 individually, and on behalf of the class
23 of all others similarly situated,

24 Plaintiff,

25 vs.

26 NATIONSTAR MORTGAGE LLC, a
27 Federal Savings Bank,

28 Defendant.

Case No. 3:14-cv-01024-BAS-MSB
**DECLARATION OF THEA CROSS
IN SUPPORT OF MOTION FOR
FINAL APPROVAL**

Action Filed: April 23, 2014

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21 I, Thea Cross, state and declare as follows:

22 1. I am employed by Nationstar Mortgage LLC as AVP, Year End.
23 Nationstar is in the business of, among other things, servicing home loans. In my
24 role as AVP, Year End, I am responsible for overseeing Nationstar's process for the
25 reporting of interest payments on Forms 1098 to the IRS. I have also been one of
26 the Nationstar employees primarily responsible for reviewing claim forms submitted
27 by class members in connection with the proposed settlement in this action. I have

1 personal knowledge of the facts set forth in this declaration and, if called to testify,
2 could and would testify as follows.

3 2. As explained more fully in my declaration of August 8, 2019,
4 Nationstar's ordinary practice is to include payments of previously deferred interest
5 on Option ARM Loans in its calculation of interest paid on Forms 1098.
6 Nevertheless, in a limited number of cases, Nationstar may not have reported
7 payments of deferred interest because the prior servicer did not track deferred
8 interest or provide Nationstar with data sufficient to determine whether a borrower's
9 loan balance consisted in part of previously deferred interest.

10 3. As also explained more fully in my declaration of August 8th, in 2016 I
11 developed a procedure by which I would attempt to determine which portions of a
12 loan balance consisted of previously deferred interest where the prior servicer did
13 not separately track deferred interest. As a result of that process, I manually
14 adjusted the reporting of interest on Forms 1098 to include previously deferred
15 interest on 2,867 loans. These manual corrections have resulted in an additional
16 \$50,663,194.44 in deferred interest being included in Forms 1098 for tax years
17 2015-2018. Nevertheless, this was an imperfect process due to the limitations in
18 data that Nationstar received from prior servicers.

19 4. I am informed and believed that the settlement class is comprised of all
20 borrowers who, according to Nationstar's records, made one or more payments on
21 an Option ARM Loan between 2010 and 2018. Class members who believe that
22 Nationstar did not report payments of deferred interest on a Form 1098 for any tax
23 year between 2010 and 2018 and that they paid more in taxes as a result may submit
24 claims forms with supporting documentation. For class members who submit valid
25 claims with respect to tax years 2016, 2017, or 2018, Nationstar has agreed to issue
26 a Corrected Form 1098. For all other class members who submit valid claims,
27 Nationstar has agreed to pay \$50.

1 5. I am informed and believe that the class administrator has received 280
2 completed claim forms thus far that include documentation supporting the class
3 members' claims that they paid more in taxes than was owed. Nationstar has
4 reviewed 68 of these claim forms thus far. Nationstar is still in the process of
5 reviewing the remaining claim forms. With respect to the 68 claim forms that have
6 been reviewed thus far, I can report the following results:

7 a. On 50 loans, Nationstar has determined that it reported all
8 interest paid by the borrower on the Form 1098, including any deferred interest paid
9 on the loan.

10 b. On 10 loans, Nationstar has determined that the amount of
11 interest reported on a Form 1098 for tax years 2016, 2017, and/or 2018 did not
12 include deferred interest that was paid. Nationstar has issued corrected Forms 1098
13 for each year where the amount of interest reported did not include deferred interest.
14 The total number of corrected Forms 1098 issued thus far is 12.

15 c. On 16 loans, Nationstar has determined that the amount of
16 interest reported on a Form 1098 for tax years 2010, 2011, 2012, 2013, 2014, and/or
17 2015 did not include deferred interest that was paid on the loan.

18 6. Nationstar will provide a supplemental declaration detailing the results
19 of its claim review process once that process is complete.

20 I declare under penalty of perjury under the laws of the United States of
21 America that the foregoing is true and correct. Executed December 13th, 2019, at
22 Scottsbluff, Nebraska.

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Declaration of Thea Cross